

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

February 3, 2010

DIVISION ONE

B213386 Kempton, et al. (Not for Publication)
 v.
 Clark

The order is affirmed.

Chaney, J.

We concur: Rothschild, Acting P.J.
 Johnson, J.

B209312 People (Not for Publication)
 v.
 Torres

The robbery special circumstance is stricken. In all other respects, the judgment is affirmed.

Chaney, J.

We concur: Rothschild, Acting P.J.
 Johnson, J.

DIVISION ONE (continued)

B211415 KMart Corporation (Not for Publication)
v.
XL Insurance America, Inc., et al.

The judgment is affirmed as to Securitas and Securitas Holdings but reversed as to XL. The superior court's orders sustaining XL's demurrer to the fourth cause of action, granting XL's motion for summary adjudication, and denying Kmart's motions for summary adjudication are vacated. The superior court is directed to enter a new and different order denying XL's motion for summary adjudication and granting Kmart's motion (filed September 14, 2007) for summary adjudication of XL's eleventh affirmative defense on the ground that Kmart is an additional insured under the XL policies. The parties shall bear their own costs of appeal.

Rothschild, J.

We concur: Mallano, P.J.
 Chaney, J.

B216220 Musnicki (Not for Publication)
v.
Janasi

The judgment is vacated and the cause is remanded to the trial court with directions to consider Musnicki's request for equitable relief. Each side to bear its own costs on appeal.

Rothschild, J.

We concur: Mallano, P.J.
 Johnson, J.

DIVISION THREE

B211490 People (Not for Publication)

V.

Sorachat Phiewphaek

The judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Kitching, J.

B214680 In the Matter of the Conservatorship of Lenabelle Berg Davis

Davis

v.

Joann D. Acuff

Filed order denying petition for rehearing.

DIVISION FIVE

Court reconvened at 9:00 a.m.

Present: Turner, P.J., Armstrong, J., Kriegler, J. and J. Belcher, Deputy Clerk.

Each of the following:

B217579 People v. Evans

B213673 People v. Elzy

B218427 DCFS v. K.M.

Argument waived, cause submitted.

DIVISION FIVE (continued)

B217356 People
 v.
 Brandon Jarvis

Merits:
Argued by Mona Miller for appellant and by Steven Matthews, deputy attorney general, for respondent. Cause submitted.

B212443 Howard Woffinden
 v.
 Mid-West National Life Insurance Co., et al.

Merits:
Argued by Antony Stuart for appellant and by Fred Puglisi, George Schiavelli and Jon Viola for respondents. Cause submitted.

B217411 Oasis West Realty
 v.
 Kenneth Goldman

Merits:
Argued by Dirk Vincent for appellant and by Steven Schiffres for respondent. Cause submitted.

Court recessed.

Court reconvened at 10:00 a.m.

Present: Turner, P.J., Armstrong, J., Kriegler, J. and D. Nolan, Deputy Clerk.

B216349 People
 v.
 Thomas Ray Martomez

Merits:
Argued by Katherine E. Greenebaum for appellant and by Dawn Mortazavi, deputy attorney general for respondent. Cause submitted.

DIVISION FIVE (continued)

B211844 Debra D. Hutchings, as Trustee, etc.
B213719 v.
Daniel d. Drommerhause III

Merits:

Argued by Adam Streisand for respondent and by Andre Echavarria for appellant. Cause submitted.

B212528 Janice Sharp, et al.
v.
Paul Anderson, et al.

Merits:

Argued by Kevin J. Stack for appellants, by Katherine A. Miller for respondent Paul and Elizabeth Anderson and by Eric M. Volkert for Alta San Rafael Associatino. . Cause submitted.

Court recessed.

Court reconvened at 11:00 a.m.

Present: Armstrong, Acting Presiding J., Mosk, J., Kriegler, J. and D. Nolan, Deputy Clerk.

B217446 People v. Nesbitt

Argument waived, cause submitted.

B214431 People
v.
Carlos Calderon

Merits:

Argued by Allen G. Weinberg for appellant and by Marc Kohm, deputy attorney general for respondent. Cause submitted.

DIVISION FIVE (continued)

B210962 David Martin
 v.
 AAA Flag Banner

Merits:
Argued by David J. Duchrow for appellant and by Diana L. Courteau for respondent. Cause submitted.

B212411 Westco Contractos, Inc.,
 v.
 John Z. Blazeovich

Merits:
Argued by Christopher M. Gilman and Nicholas Gedo for appellant and by Roy G. Weatherup for respondent. Cause submitted.

Court recessed.

Court reconvened at 1:00 p.m.

Present: Armstrong, Acting Presiding J., Mosk, J., Kriegler, J. and D. Nolan, Deputy Clerk.

B215201 Diaa Yassin
 v.
 Vinicio Solis

Merits:
Argued by Richard A. Jorgensen for appellant and Ashley D. Posner for respondent. Cause submitted.

B215770 Tery Hoffman
 v.
 Uncle P. Productions, et al.

Merits:
Argued by Alan Harris for appellant. Respondent prohibited from arguing pursuant to CRC 8.360(c)(5) . Cause submitted.

DIVISION FIVE (continued)

Court adjourned.

B213868 People (Not for Publication)
v.
Stacey Denise Johnson

The judgment is modified to include the additional penalty assessments, the surcharge, and fees set forth in the body of this opinion. Upon remittitur issuance, the clerk of the superior court is to prepare an amended abstract of judgment reflecting the modifications and forward a copy to the Department of Corrections and Rehabilitation. The judgment is affirmed in all other respects.

Turner, P.J.

We concur: Mosk, J.
Kriegler, J.

DIVISION SIX

B212965 Darrell G. Dotson
v.
Amgen, Inc.

Filed order certifying opinion for publication.

DIVISION SEVEN

B216878 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Daniel C. et al.

The orders are affirmed.

Jackson, J.

We concur: Perluss, P.J.
Woods, J.

DIVISION SEVEN (continued)

B211006 People (Not for Publication)
v.
Perez, et al.

As to each defendant, the section 422.7 finding as to the battery on Johnson (count 6) and the sentence imposed based upon the finding are reversed. The section 12022.7, subdivision (a), finding as to Perez with respect to Kearney is reversed. The clerk of the court is directed to prepare a corrected abstract of judgment and forward a copy to the Department of Corrections and Rehabilitation. In all other respects, the judgments are affirmed.

Jackson, J.

We concur: Woods, Acting P.J.
Zelon, J.

B210963	People v. Healan	(Not for Publication)
B217093	In re Healan on Habeas Corpus	

The judgment is modified to provide a consecutive term of two years for each violation of section 288, subdivision (a), counts 3 through 11, for a total of 18 years on these counts. As so modified, the judgment is affirmed. The petition for writ of habeas corpus is denied. The clerk of the court directed to prepare a modified abstract of judgment and forward a copy to the Department of Rehabilitation and Corrections.

Jackson, J.

We concur: Perluss, P.J.
Zelon, J.

DIVISION SEVEN (continued)

B210399 People v. Lewis (Not for Publication)

The lying-in-wait special circumstances are reversed. The judgment is modified by striking the second multiple murder special circumstance. As so modified, the judgment is affirmed.

Jackson, J.

We concur: Woods, Acting P.J.
Zelon, J.

DIVISION EIGHT

B216312 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Lucille C.,
In re Victoria J., a Person Coming Under the Juvenile Court Law.

The orders denying appellant's section 388 petition and terminating her parental rights under section 366.26 are affirmed.

Flier, J.

We concur: Rubin, Acting P.J.
Lichtman, J. (Assigned)